

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

AMERICAN FEDERATION OF)
GOVERNMENT EMPLOYEES, AFL-CIO,)
Plaintiffs,)
)
) Civil Action
vs.) No.
) 25-10276-GAO
)
CHARLES EZELL, ACTING DIRECTOR,)
OFFICE OF PERSONNEL)
MANAGEMENT, et al,)
)
Defendants.)

BEFORE: THE HONORABLE GEORGE A. O'TOOLE

MOTION HEARING

John Joseph Moakley United States Courthouse
Courtroom No. 22
1 Courthouse Way
Boston, MA 02210

February 6, 2025
1:09 p.m.

Valerie A. O'Hara
Official Court Reporter
John Joseph Moakley United States Courthouse
1 Courthouse Way
Boston, MA 02210
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1 APPEARANCES:

2 For the Plaintiffs:

3 Democracy Forward Foundation, by ELENA GOLDSTEIN, ESQ.,
4 and DANIEL ALEXANDER MCGRATH, ESQ., P.O. Box 34553,
5 Washington, D.C. 20043;

6 Murphy Anderson PLLC, by NICOLAS MENDOZA, ESQ.,
7 1401 K Street NW, Suite 300
8 Washington, D.C. 20005;

9 Murphy Anderson, PLLC, by MICHAEL T. ANDERSON, ESQ.,
10 33 Harrison Ave, 7th Floor, Boston, MA 02111;

11 ANDRES M. GRAJALES, ESQ., AFGE
12 80 F. Street, N.W., Washington, D.C. 20001;

13 For the Defendants:

14 Department of Justice - Civil Division,
15 by JOSHUA E. GARDNER, ESQ.
16 Poc Agostinho, Jean, 1100 L St., N.W., Suite 12200
17 Washington, D.C. 20530.
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1 PROCEEDINGS

2 THE CLERK: Your Honor, this is Civil Matter of
3 25-cv-10276, American Federation of Government Employees,
4 AFL-CIO, et al. Motion hearing. Parties identify themselves
5 for the Court. For the plaintiff, please.

6 MS. GOLDSTEIN: Your Honor, Elena Goldstein
7 representing the plaintiffs.

8 MR. McGRATH: Daniel McGrath representing the
9 plaintiffs, your Honor.

01:09PM 10 MR. ANDERSON: Michael Anderson, Murphy, Anderson for
11 the plaintiffs.

12 MR. GRAJALES: Andres Grajales for plaintiffs.

13 MR. MENDOZA: Nick Mendoza for the plaintiffs.

14 THE COURT: Are there any counsel for the government
15 defendants online? Well, all right, we'll proceed without
16 them.

17 This proceeding will be very brief. It's my intention
18 simply to establish an appropriate and adequate briefing
19 schedule, and I make no assessment at this stage of the merits
01:10PM 20 of the claims or the defenses.

21 The sound is not very good.

22 Representing the government defendants?

23 THE CLERK: Is the government present? Are the people
24 at the bottom --

25 THE COURT: All right, I'll just continue. So I will

1 set -- the briefing is already underway. Of course, the
2 plaintiff's brief was submitted at the time the case was filed.
3 I'm told now that within about the last 40 minutes or so, the
4 government, the defendants, have submitted a brief.

5 I'm not clear where we are. Let me continue. As I
6 say now, there's a brief from the defendants, which I have not
7 yet seen. I'm aware it's been filed. I will permit the
8 plaintiffs to enter, to submit a further reply by the close of
9 business tomorrow, Friday, and we will schedule oral agreement
01:12PM 10 for 2:00 on Monday afternoon.

11 In aid of the proper consideration of the issues
12 presented by both sides, I enjoin the defendants from taking
13 any action to implement the so-called directive pending the
14 completion of briefing and oral agreement on the issues, and
15 that will, as I say, that hearing will be conducted Monday
16 afternoon commencing at 2:00.

17 And I believe that's as far as I want to go today, so
18 we will look for the completion of the paper submissions and
19 schedule a hearing like this one for 2:00 Monday afternoon.

01:13PM 20 MS. GOLDSTEIN: Your Honor, may I be heard?
21 Elena Goldstein for the plaintiffs.

22 THE COURT: Go ahead.

23 MS. GOLDSTEIN: Your Honor, the plaintiff's directive
24 to employees state that they must either accept the directive,
25 the offer of deferred resignation by today or else that offer

1 will expire. I understand that the Court's order now pauses
2 that communication.

3 THE COURT: Yes.

4 MS. GOLDSTEIN: Absent notice to employees, they will
5 not know that, and they may be inclined to accept this
6 ultimatum without the benefit of this Court's consideration.

7 Accordingly, we would request that defendants be
8 required to send out notice immediately to all the employees
9 who originally received that invitation for this deferred
01:13PM 10 resignation so that they are aware of the Court's order.

11 (Indiscernible - garbled)

12 THE COURT: I'm not understanding what was said.

13 MS. GOLDSTEIN: I think that was someone who was not a
14 party to the case who was on the phone and was unmuted, your
15 Honor. I believe the government is on the line. I don't think
16 we can hear Mr. Gardner, unfortunately. I'm not sure if there
17 is another lawyer for the government who might be able to be
18 heard.

19 MR. GARDNER: Your Honor, can you hear me? This is
01:14PM 20 Josh Gardner.

21 THE COURT: All right.

22 MR. GARDNER: Your Honor, can you hear me?

23 THE COURT: Yes, I can hear you now.

24 MR. GARDNER: Okay, thank you. We have comments. I
25 understand Ms. Goldstein's views, and if this Court believes

1 that additional notice is appropriate at this juncture, we're
2 prepared to do that.

3 THE COURT: And the people involved will receive that
4 notice by the close of business today?

5 MR. GARDNER: Yes, your Honor, what I can do, I can
6 work with OPM immediately after this to ensure that the same
7 individuals who received the previous notification receive a
8 notification that the deadline is paused pending Monday's
9 hearing.

01:15PM 10 THE COURT: Right. That's correct. And I assume that
11 you have the capacity to contact all those people who were
12 contacted?

13 MR. GARDNER: I assume the answer to that is correct,
14 your Honor, given that those federal employees have received
15 multiple notices since January 28th. I assume we would
16 distribute this notice to that same group of people.

17 THE COURT: I presume electronically, right?

18 MR. GARDNER: Correct.

19 THE COURT: Okay. I think that should satisfy the
01:15PM 20 plaintiff's concern. So this is just a table setting session.
21 The merits of the arguments are on Monday afternoon. That
22 completes our hearing.

23 MR. GARDNER: Thank you, your Honor.

24 THE CLERK: Court is in recess.

25 (Whereupon, the hearing was adjourned at 1:15 p.m.)

C E R T I F I C A T E

UNITED STATES DISTRICT COURT)
DISTRICT OF MASSACHUSETTS) ss.
CITY OF BOSTON)

I do hereby certify that the foregoing transcript,
Pages 1 through 7 inclusive, was recorded by me
stenographically at the time and place aforesaid in Civil
Action No. 25-10276-GAO, AMERICAN FEDERATION OF GOVERNMENT
EMPLOYEES, AFL-CIO vs. CHARLES EZELL, ACTING DIRECTOR,
OFFICE OF PERSONNEL MANAGEMENT, and thereafter by me reduced to
typewriting and is a true and accurate record of the
proceedings.

Dated February 7, 2025.

s/s Valerie A. O'Hara

VALERIE A. O'HARA

OFFICIAL COURT REPORTER